

UNITED STATES DISTRICT COURT DISTRICT COURT OF GUAM

for

District of Guam

FILED

FEB - 5 2007 *hbc*

MARY L.M. MORAN
CLERK OF COURT

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Vicente Guerrero Perez Case Number: CR 03-00001-001

Name of Sentencing Judicial Officer: John S. Unpingco

Date of Original Sentence: July 2, 2003

Original Offense: Use of a Communication Facility in Facilitating a Controlled Substance Offense, in violation of 21 U.S.C. § 843(b).

Original Sentence: 48 months imprisonment, followed by a one year term of supervised release with conditions: not commit another federal, state, or local crime; not illegally possess a controlled substance; refrain from any unlawful use of a controlled substance; submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter; not possess a firearm; comply with the standard conditions of supervision; refrain from the use of any and all alcoholic beverages; participate in a program approved by the U.S. Probation Office for assessment and treatment of narcotic addiction or drug or alcohol dependency, which will include testing for the detection of substance use or abuse; undergo a mental health assessment and treatment if recommended; obtain and maintain gainful employment; perform 100 hours of community service; and pay a \$100 special assessment fee.

Type of Supervision: Supervised Release Date Supervision Commenced: September 20, 2006

Assistant U.S. Attorney: Mark Kondas Defense Attorney: Joaquin C. Arriola, Jr.

PETITIONING THE COURT

- ☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1.	Arrested for Family Violence and Assault, in violation of 18 U.S.C. §3583(d).
2.	Arrested for Criminal Mischief and Theft of Utilities, in violation of 18 U.S.C. §3583(d).

U.S. Probation Officer Recommendation:

☒ The term of supervision should be

☒ revoked.

☐ extended for _____ years, for a total term of _____ years.

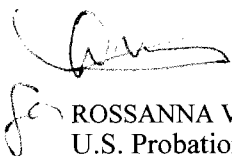
☐ The conditions of supervision should be modified as follows:

*See attached Declaration in Support of Petition,
Re: Violation of Supervised Release Conditions; Request for a Summons
submitted by USPO John W. San Nicolas II*

Reviewed by:

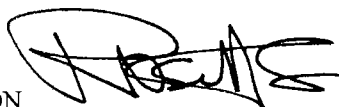
Reviewed by:

I declare under penalty of perjury
that the foregoing is true and correct.



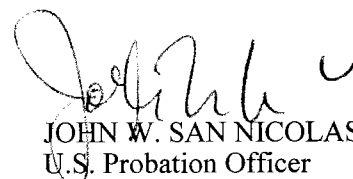
ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

Date: JAN. 26, 2007



Assistant U.S. Attorney

Date: 1/29/07



JOHN W. SAN NICOLAS II
U.S. Probation Officer

Executed on: January 26, 2007

THE COURT ORDERS:

☐ No action.

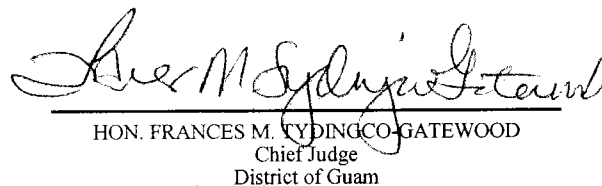
☐ The issuance of a warrant.

☒ The issuance of a summons.

☐ Other

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JAN 30 2007

DISTRICT COURT OF GUAM
HAGATNA, GUAM


HON. FRANCES M. TYDINGCO-GATEWOOD
Chief Judge
District of Guam

2/5/07

Date

VIOLATION WORKSHEET

1. Defendant Vicente Guerrero Perez

2. Docket Number (Year-Sequence-Defendant No.) CR 03-00001-001

3. District/Office 0993/1

4. Original Sentence Date 7 / 2 / 03
month day year

(If different than above):

5. Original District/Office _____

6. Original Docket Number (Year-Sequence-Defendant No.) _____

7. List each violation and determine the applicable grade (see §7B1.1(b))

<u>Violation(s)</u>	<u>Grade</u>
● <u>Shall not commit another federal, state, or local law.</u>	C
● <u>Shall not commit another federal, state, or local law.</u>	B
● _____	
● _____	
● _____	
● _____	

8. Most Serious Grade of Violation (see §7B1.1(b)) B

9. Criminal History Category (see §7B1.4(a)) III

10. Range of Imprisonment (see §7B1.4(a)) 8-14 months

11. Sentencing Options for Grade B and C Violations Only (Check the appropriate box):

- ☐ (a) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is at least one month but not more than six months, §7B1.3(c)(1) provides sentencing options to imprisonment.
- ☒ (b) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, §7B1.3(c)(2) provides sentencing options to imprisonment.
- ☐ (c) If the minimum term of imprisonment determined under §7B1.4 (Term of Imprisonment) is more than ten months, no sentencing options to imprisonment are available.

Defendant: Vicente Guerrero Perez

12. **Unsatisfied Conditions of Original Sentence**

List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (see §7B1.3(d)):

Restitution (\$)	<u>N/A</u>	Community Confinement	<u>N/A</u>
Fine (\$)	<u>N/A</u>	Home Detention	<u>N/A</u>
Other	<u>68 hrs Community Service</u>	Intermittent Confinement	<u>N/A</u>

13. **Supervised Release**

If probation is to be revoked, determine the length, if any, of the term of supervised release according to the provisions of §§5D1.1-1.3 (see §§7B1.3(g)(1)).

Term: _____ to _____ years.

If supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment (see 18 U.S.C. §3583(e) and §7B1.3(g)(2)).

Period of supervised release to be served following release from imprisonment: 0-4 months

14. **Departure**

List aggravating and mitigating factors that may warrant a sentence outside the applicable range of imprisonment:

At the time of sentencing, the Court departed downward from the sentencing guidelines pursuant to U.S.S.G. Section 5K1.1. Pursuant to U.S.S.G., Section 7B1.4 Application Note 4., an upward departure from the revocation imprisonment term is authorized.

15. **Official Detention Adjustment** (see 0 months 0 days)

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF GUAM**

UNITED STATES OF AMERICA, Plaintiff,)	CRIMINAL CASE NO. 03-00001-001
)	
)	
vs.)	DECLARATION IN SUPPORT OF PETITION
)	
VICENTE GUERRERO PEREZ, Defendant.)	
)	
<hr style="width: 100%;"/>)	

Re: Violation of Supervised Release Conditions; Request for a Summons

I, U.S. Probation Officer John W. San Nicolas II, am the U.S. Probation Officer assigned to supervise the Court-ordered conditions of supervised release for Vicente Guerrero Perez, and in that capacity declare as follows:

On July 2, 2003, Vicente Guerrero Perez was sentenced by the Honorable John S. Unpingco for Use of a Communication Facility in Facilitating a Controlled Substance Offense, in violation of 21 U.S.C. § 843(b). He received a 48 month term of imprisonment, followed by a one year term of supervised release with various conditions, to include that he not commit another federal, state, or local crime. Mr. Perez is alleged to have violated the following conditions of supervision, which are a violation of 18 U.S.C. § 3583(d).

Mandatory Condition 1: *The defendant shall not commit another federal, state, or local crime.*

On December 17, 2006, at approximately 3:30 a.m., Vicente Guerrero Perez was arrested by Guam Police Department officers for Aggravated Assault and Family Violence. On December 18, 2006, a Magistrate's Complaint Declaration filed in the Superior Court of Guam charged Mr. Perez with one count of Family Violence, as a Misdemeanor, and one count of Assault, as a Misdemeanor.

On December 26, 2006, at approximately 1:30 p.m., Vicente Guerrero Perez was arrested by Guam Police Department officers for one count of Criminal Mischief and two counts of Theft of Utilities.

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Re: PEREZ, Vicente Guerrero

USDC Cr. Cs. No. 03-00001-001

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Summaries of Guam Police Report Case Number KY06-33066, Magistrate's Complaint Declaration in Criminal Case Number CM 1014-06, and Guam Police Report Case Number KY06-34082 are as follows.

KY06-33066 and Magistrate's Complaint Declaration Cr. Cs. No. CM1014-06

A review of Guam Police Report Case Number KY06-33066 and Magistrate's Complaint Declaration in Criminal Case Number CM1014-06 revealed that on December 16, 2006, at approximately 7:00 p.m., Guam Police Department Officer A. Manlulu proceeded to Canada Store on Chapel Road, Barrigada, to respond to a family violence and assault complaint issued by Jeannifer Lorraine Perez. Ms. Perez stated that she had just been "run over" by her husband, later identified as Vicente Guerrero Perez, who was driving a black, 1991 Toyota 4Runner, license plate number ORD290. Ms. Perez was transported to the Guam Memorial Hospital for medical treatment for injuries she sustained during the incident.

Ms. Perez was interviewed at the scene of the incident, at the Guam Memorial Hospital, and at the Guam Police Department, Hagatna Precinct, by Officer Manlulu. Ms. Perez stated that prior to the incident, she and her husband were attending marriage counseling with Dr. Edward Santos at Marianas Psychiatric Services in Barrigada. When they departed together in the vehicle, it was her intent to return home, gather her personal belongings, and move out of the residence. However, an argument ensued in the vehicle because Mr. Perez did want her to leave. Mr. Perez stopped the vehicle in the parking area of Canada Store. Ms. Perez stated that during the argument, she grabbed the keys from the ignition and a CD player faceplate and placed them in her purse. She admitted to grabbing a bunch of papers from the glove compartment and throwing them out the window. When Ms. Perez attempted to exit the vehicle, Mr. Perez grabbed her wrist and kept her inside the vehicle. Ms. Perez also admitted that she "bit" Mr. Perez on the arm to free herself from his

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grasp. Mr. Perez wanted to proceed back to Marianas Psychiatric Services to get further guidance from Dr. Santos, however, Ms. Perez refused to accompany him. As he pulled onto Chapel Road, Mr. Perez stopped the vehicle, just as he was proceeding onto Toto-Canada Loop. Ms. Perez opened the passenger door and attempted to exit the vehicle. As she was stepping out of the vehicle, Mr. Perez drove off. Ms. Perez stated that she fell onto the ground and her left leg was run over by the right rear tire of the vehicle. She called out for him to stop, but Mr. Perez kept driving away. Ms. Perez walked over to Canada Store to request for assistance.

Officer Manlulu observed the following injuries on Ms. Perez: swelling on left ankle; small abrasion on inner left ankle; bandage on right middle finger; bruises on left arm area; and bruises on left leg area. Officer Malulu also met with Dr. Ian Richardson, who stated that Ms. Perez suffered a broken left ankle, bruises on both sides of her hips, and a dislocated middle finger.

On December 17, 2006, Ms. Perez was arrested for Assault and Family Violence. She was booked and confined at the Women's Detention Facility, Department of Corrections, in Mangilao, from December 17, 2006 to December 18, 2006. On December 18, 2006, Ms. Perez appeared in the Superior Court of Guam for a Magistrate's Hearing in Cr. Cs. No. CM1014-06, which charged her with Family Violence and Assault. She was released on a personal recognizance bond with conditions to include that she have no contact with Mr. Perez.

Vicente Guerrero Perez was interviewed at Marianas Psychiatric Services and at the Guam Police Department, Hagatna Precinct, by Officer J.F. San Nicolas. Mr. Perez stated that during the counseling session with Dr. Edward Santos, his wife, Jeanifer, walked out during a "heated discussion." Mr. Perez stated that his wife has been angry with him for about four weeks because she found out that he was

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being unfaithful and refused to leave the other woman. He followed her in an attempt to get her to return to counseling. When she did return, she only wanted to use the telephone to request for a ride to work. Mr. Perez offered to drive her home and then to work. They mutually agreed that Ms. Perez should move out of the residence while they work out their differences. While in the vehicle, Ms. Perez became belligerent, kicked the dashboard, threw papers from the glove compartment out the window, grabbed the keys from the ignition, and took the CD faceplate from the CD player. Mr. Perez grabbed her wrist in an attempt to get the keys from her. During the struggle, Ms. Perez punched and bit Mr. Perez on the right shoulder. Mr. Perez utilized a spare key to start the vehicle and attempted to return to the counselor for further guidance, however, Ms. Perez refused to go with him. Mr. Perez stated that she opened the passenger door and threw herself out of the vehicle. He admitted that he did not stop to check on her because he was unable to control her temper. He drove to Dr. Santos Office to report the incident. Dr. Santos advised him to call the police, which he did. Officer San Nicolas observed redness and a bite mark on Mr. Perez's right shoulder. He refused medical treatment.

Vicente Guerrero Perez was detained at the Hagatna Detention Facility in Hagatna, from December 17, 2006 until December 18, 2006. On December 18, 2006, Mr. Perez appeared in the Superior Court of Guam for a Magistrate's Hearing in Cr. Cs. No. CM1014-06, which charged him with Family Violence and Assault. He was released on a personal recognizance bond with conditions to include that he stay away from Ms. Perez.

KY06-34082

A review of Guam Police Report Case Number KY06-34082 revealed that on December 26, 2006, at approximately 11:20 a.m., Guam Police Department Officer J. Fernandez proceeded to Rojas Apartments, Rojas Lane, Mangilao, Guam,

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to respond to a criminal mischief and theft of utilities complaint. Officer Fernandez met with M. Manibusan, a Guam Power Authority employee, who stated on December 20, 2006, he received an anonymous call revealing that a male individual (later identified as Vicente Guerrero Perez), was tapping onto a power meter for Apartment #5. Mr. Manibusan reported to the location and inspected the power meter for Apartment #5. He tested the meter and discovered that it was not working properly because the gears were damaged. Mr. Manibusan replaced the meter with a new one. On December 26, 2006, while trouble shooting power meters in the same area, Mr. Manibusan discovered that the glass casing on the power meter for Apartment #5 was cracked and it was later determined that the mechanism to the meter was also damaged.

On the same date, at approximately 12:10 p.m., Officer Fernandez met with Mr. Vicente Guerrero Perez at his apartment and requested that he report to the Guam Police Department Hagatna Precinct for an interview in reference to the complaint that was made by Mr. Manibusan. At the Hagatna Precinct, Mr. Perez was advised of his rights via the Guam Police Department Custodial Interrogation Rights Form, which he executed. Mr. Perez verbally admitted that on December 20, 2006, he "tapped" on the power meter. He also admitted that on December 26, 2006, he "hit the glass" of the power meter with his hand and cracked the glass, injuring his hand in the process. Mr. Perez was arrested for one count of Criminal Mischief and two counts of Theft of Utilities and was booked and confined. On December 27, 2006, Mr. Perez was released as requested by the Attorney General's Office. He received a Notice to Appear, which requires him to appear at the Superior Court of Guam on December 23, 2009. A Guam Police Department Stolen/Damage Property form valued the damaged power meters at \$100 each. The total loss to the Guam Power Authority is \$200.

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Supervision Compliance: Except as outlined above, Mr. Perez has generally complied with the following conditions of supervision since being placed on supervised release. On September 18, 2006, he started drug treatment and testing and mental health treatment, and has been compliant with his substance abuse and family therapy counseling, as well as his drug testing requirements. Since September 29, 2006, he has been gainfully employed with Universal Maintenance. In addition, he started his community service requirement on October 14, 2006. His balance remains at 68 hours. Furthermore, Mr. Perez paid his special assessment fee on July 15, 2003, and submitted to a DNA sample of his blood on July 5, 2006 while incarcerated.

Recommendation: This Officer respectfully requests that the Court issue a Summons for Vicente Guerrero Perez and that he be ordered to appear for a hearing to answer or show cause why his term of supervised release should not be revoked, pursuant to 18 U.S.C. § 3583.

Executed this 26th day of January 2007, at Hagatna, Guam, in conformance with the provisions of 28 U.S.C. § 1746.

I declare, under penalty of perjury, that the foregoing is true and correct, except those matters stated upon information and belief, and as to those matters, I believe them to be true.


Respectfully submitted,

FRANK MICHAEL CRUZ
Chief U.S. Probation Officer

By:


JOHN W. SAN NICOLAS II
U.S. Probation Officer

Reviewed by:


ROSSANNA VILLAGOMEZ-AGUON
U.S. Probation Officer
Supervision Unit Leader

cc: AUSA
Joaquin C. Arriola, Jr., Defense Counsel